

EXHIBIT “26”

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF QUEENS: CRIMINAL TERM, PART TAP A

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3 THE PEOPLE OF THE STATE OF NEW YORK, Indictment No.

4 -against-

71553/23

5 Plea

6 DESPINA THEOCHARIS,

Defendant.

7 -----X

November 30, 2023

8 125-01 Queens Boulevard

Kew Gardens, New York

9

10

B E F O R E :

11

HONORABLE TONI CIMINO,

12

Justice,

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14

A P P E A R A N C E S :

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For the People:

16

MELINDA KATZ, ESQ.

17

District Attorney, Queens County,

BY: BRIAN KOHM, ESQ.

18

Assistant District Attorney

19

FOR THE DEFENDANT:

20

OLIVER STORCH, ESQ.

21

120 Broadway

New York, New York

22

BY: PAUL TESTAVERDE, ESQ. OF COUNSEL

23

ROCHELLE J WRIGHT, RPR, CSR

24

OFFICIAL COURT REPORTER

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RJW

1 COURT CLERK: 49, indictment 71553 of '23, Despina
2 Theocharis who is out and present.

3 MR. KOHM: Brian Kohm for the People.

4 MR. TESTAVERDE: For the defendant, Paul
5 Testaverde, of counsel for Oliver Storch, 120 Broadway, New
6 York, New York.

7 THE COURT: This matter is on today for trial.

8 MR. KOHM: Your Honor, we have disposition today.

9 THE COURT: What is the resolution that's being
10 proposed?

11 MR. KOHM: Petit larceny with a conditional
12 discharge, that the defendant pay \$5,000 in restitution. I
13 have a document through a canceled check and records from
14 Metro Chrysler Plymouth. And the Grand Jury minutes here.
15 I believe that the defendant is ready to pay even something
16 today, Mr. Testaverde.

17 MR. TESTAVERDE: Yes. Able to pay five percent.

18 THE COURT: Five percent.

19 MR. TESTAVERDE: Five hundred.

20 MR. KOHM: Five hundred.

21 MR. TESTAVERDE: It was because of the surcharge.

22 THE COURT: Restitution is \$5,000 plus there is a
23 five percent surcharge in addition that's payable through
24 Safe Horizon. That's something I don't have any control
25 over.

1 MR. TESTAVERDE: Understood, your Honor.

2 THE COURT: My issue is I guess financial
3 wherewithal. I know Ms. Theocharis has private counsel. I
4 all make that inquiry because I am -- I don't want to be in
5 a position where I am going to sentence Ms Theocharis to 364
6 days in jail because she comes in and tells me she doesn't
7 have the financial wherewithal to pay.

8 Can you tell me, Mr. Testaverde, what am I
9 supposed to be relying on to ensure that this is an
10 appropriate disposition. I am not going to be forced with
11 perhaps putting somebody who is financially unstable in
12 jail. I don't want to ever have to do that.

13 MR. TESTAVERDE: Your Honor, all she needs is
14 about a few months. I would like to have three, four months
15 for cushioning. It should be all paid by then.

16 THE COURT: Five hundred dollars is being paid
17 today. How is that being paid?

18 MR. TESTAVERDE: I believe she has cash, your
19 Honor.

20 MR. KOHM: It has to go through Safe Horizon.

21 THE COURT: Has to go through Safe Horizon. I
22 don't know where that office is.

23 MR. TESTAVERDE: I believe it's downstairs. We
24 will make payment right after this appearance.

25 THE COURT: Do they take cash?

1 MR. TESTAVERDE: No idea. It's possible they
2 could take a card.

3 THE COURT: \$500 is going to be paid today and I
4 am going to require that all money be paid by -- what do you
5 think is realistic here?

6 MR. TESTAVERDE: I would like at least four
7 months. Four months from today would be end of February,
8 early March.

9 THE COURT: I am going to put this on for
10 March 22nd. Everything is due and payable by March 22nd.
11 You are asking me for February. I am giving you March
12 because I want to make sure that it's all taken care of.
13 That will be a compliance date. If your client has paid in
14 full on March 22nd, I will waive her appearance and your
15 office could coming in or provide the proof in advance that
16 all the money has been paid.

17 MR. TESTAVERDE: Okay. Very good, your Honor.

18 THE COURT: With respect to this matter --

19 MR. KOHM: I am going to ask 155.25, lesser
20 included.

21 THE COURT: Lesser included will plead under count
22 one. Mr. Testaverde, have you or Mr. Storch had a
23 conversation with Ms. Theocharis about her absolute right to
24 discovery. This case was previously certified back on
25 April 28th of 2023, but to the extent that anything is

1 outstanding, does your client understand that by pleading
2 guilty today there will be no further discovery, that part
3 of the case will be over?

4 MR. TESTAVERDE: Yes.

5 THE COURT: Did the People make this offer to your
6 client in any way conditioned upon a waiver of her absolute
7 right to discovery?

8 MR. TESTAVERDE: No.

9 THE COURT: We can swear in Ms. Theocharis.

10 (Whereupon, the defendant is sworn by the clerk of
11 the court.)

12 COURT CLERK: State your name for the record.

13 THE DEFENDANT: Despina Theocharis.

14 THE COURT: Ms. Theocharis, I am going to ask you
15 a series of questions now. Beginning with, you are feeling
16 well today physically and mentally, meaning have you
17 understood everything that we have said so far and are you
18 prepared to answer my questions?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Your attorney tells me that you would
21 like to plead guilty to petit larceny, that's a class A
22 misdemeanor, in exchange for a conditional discharge and the
23 conditional discharge means you have to live a law abiding
24 life for the next one year, stay out of the trouble, don't
25 get rearrested and you will also have to pay back \$5,000 in

1 restitution. There is a five percent court surcharge. You
2 are going get some paperwork today. That has to be paid
3 through Safe Horizon. Is that what you wish to do?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: There will be no mandatory court
6 surcharge in this case as a result of the substantial
7 restitution that is being paid.

8 Ms. Theocharis, have you had enough time to
9 discuss this plea, the sentence and the restitution with
10 your attorney Mr. Testaverde and also with Mr. Storch?

11 THE DEFENDANT: Yes, ma'am.

12 MR. KOHM: I have a brief allocution.

13 THE COURT: Sure.

14 With respect to this matter do you understand by
15 pleading guilty you are waiving your right to present any
16 defenses in this case. If you had a defense to the charges
17 here, you are not going to be able to present that because
18 you will not have a trial. Do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Has your attorney or your attorneys,
21 have they answered all of the your questions?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Are you pleading guilty freely and
24 voluntarily?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Is anyone forcing you to plead guilty?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Other than the promises that I have
4 just placed on the record, have any other promises been made
5 to you?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Do you understand by pleading guilty
8 you are giving up certain important constitutional rights.
9 You are giving up your right to have a jury trial, you are
10 right to confront and cross-examine the witnesses against
11 you, your right to testify or remain silent and your right
12 to have the district attorney prove the charges beyond a
13 reasonable doubt. You understand, you are giving up all of
14 those important constitutional rights?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: I am not asking if you are, but I am
17 advising, if you are not a citizen of the United States,
18 this plea may have negative immigration consequences for you
19 in the future including deportation, exclusion from
20 admission to the country or denial of naturalization.

21 Counsel, to the extent those issues are relevant
22 to your client, have they been discussed?

23 MR. TESTAVERDE: Yes.

24 THE COURT: Ms. Theocharis, I am not asking you
25 about the contents of the conversation, I just need to know

1 that you had those conversations with your attorney.

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Having had those conversations, do you
4 still wish to plead guilty here today?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Is it true that on or about and
7 between July 21st of 2016, and November 30th of 2016, in
8 Queens County, that you stole property, specifically, United
9 States currency, from Star Chrysler, is that true?

10 THE DEFENDANT: Yes.

11 MR. KOHM: In the amount of \$5,000.

12 THE COURT: It's petit larceny.

13 MR. KOHM: Understood.

14 THE COURT: There is no amount because she is
15 pleading guilty to petty larceny, not the grand larceny.

16 MR. KOHM: Understood.

17 THE COURT: Is there anything else that you wanted
18 to ask?

19 MR. KOHM: No. That was it.

20 MR. TESTAVERDE: I want to also have on the record
21 that this certificate of relief from disabilities is to be
22 signed by your Honor and I believe the People don't have a
23 position on it.

24 THE COURT: Mr. Testaverde, with respect to the
25 amount of restitution, were you satisfied with the proof

1 that the People have provided on the issue of restitution?

2 MR. TESTAVERDE: Yes.

3 THE COURT: Having said that, Counsel, Mr. Kohm,
4 are the People satisfied with the allocution?

5 MR. KOHM: Yes, your Honor.

6 THE COURT: Is there a waiver in this case?

7 MR. KOHM: No, your Honor.

8 THE COURT: Counsel, is your client waiving any
9 adjournment for investigation and sentence?

10 MR. TESTAVERDE: No, your Honor.

11 THE COURT: She wants to come back to court for
12 sentence? I am asking if you are waiving a probation
13 report.

14 MR. TESTAVERDE: We can do it today.

15 THE COURT: You are waiving the investigation and
16 sentence?

17 MR. TESTAVERDE: Yes.

18 THE COURT: Your client stands ready for sentence
19 today?

20 MR. TESTAVERDE: Yes.

21 THE COURT: Before sentence is imposed, both
22 People, defense counsel and Ms. Theocharis have a right to
23 make a statement. Beginning with the People.

24 MR. KOHM: Nothing further.

25 THE COURT: Counsel?

1 MR. TESTAVERDE: Nothing further.

2 THE COURT: Ms. Theocharis, is there anything that
3 you want to say?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: The sentence of the court is as
6 promised, conditional discharge, \$5,000 in restitution plus
7 five percent surcharge payable through Safe Horizon.

8 The restitution and surcharge are due and payable
9 all by March 22nd of 2024. That's the court date for
10 compliance as I indicated earlier.

11 If you are paid in full, your attorney can simply
12 provide that proof to the court in advance of the court date
13 and you will not have to come. If you do not pay the
14 restitution by that date, you do also face the possibility
15 of a violation of the conditional discharge because a
16 condition of your, of the conditional discharge is that you
17 pay by that date. That is a possibility. As I said, if
18 everything is all good, you don't have to come back to
19 court.

20 No surcharge in the case. Wait for paperwork.

21 There is also going to be a DNA sample required as
22 a result of this conviction.

23 I am signing the certificate of relief from civil
24 disabilities.

25 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT.

Rochelle J. Wright